



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

WALTER DEL GALLO MD
1311 EST GENERAL CAVAZOS
KINGSVILLE TEXAS 78363

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name:
Insurance Carrier #:

Respondent Name

HARTFORD UNDERWRITERS INSURANCE

Carrier's Austin Representative Box

Box Number 47

MFDR Tracking Number

M4-11-3953-01

MFDR Date Received

July 8, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Authorization on file. Reconsider for payment has been submitted several times by another co-workers which she is no longer with our co."

Amount in Dispute: \$870.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Rule 133.20 (b) & 133.307 (c)(1). Please dismiss. Pd 7/18/11."

Response Submitted by: The Hartford

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 15, 2009, June 19, 2009, June 26, 2009, June 29, 2009, July 29, 2009 and August 18, 2010	97001-GP, 97110-GP, 97010-GP, 97032-GP, 99212 and 73560	\$870.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.

5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated July 14, 2011

- 29 – The time limit for filing has expired. Per Texas labor code 408.027 bills must be sent to the carrier on a timely basis, within 95 days from the dates of service.

Explanation of benefits dated July 15, 2011

- W1 – WC state fee sched adjust. Reimbursement according to the Texas medical fee guidelines
- 29 – The time limit for filing has expired. Per Texas labor code 408.027 bills must be sent to the carrier on a timely basis, within 95 days from the dates of service.

Issues

1. Did the requestor file for medical fee dispute resolution within the one year filing deadline?
2. Did the requestor waive their right to medical fee dispute resolution for dates of service June 15, 2009, June 19, 2009, June 26, 2009, June 29, 2009 and July 29, 2009?
3. What is the timely filing deadline applicable to the medical bills for the services in dispute?
4. Did the requestor forfeit the right to reimbursement for the services in dispute?

Findings

1. 28 Texas Administrative Code §133.307 states in pertinent part “(c) Requests. Requests for MFDR shall be filed in the form and manner prescribed by the division. Requestors shall file two legible copies of the request with the division: (1) Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.”
 - The Medical Fee Dispute Resolution section received the DWC060 on July 8, 2011. The requestor disputes date of service June 15, 2009, June 19, 2009, June 26, 2009, June 29, 2009, July 29, 2009 and August 18, 2010.
 - Dates of service June 15, 2009, June 19, 2009, June 26, 2009, June 29, 2009 and July 29, 2009 were submitted over the one year filing deadline and are therefore ineligible for review.
 - Date of service August 18, 2010 was submitted timely and will be reviewed per the applicable guidelines.
2. The requestor billed CPT codes 99212 and 73560 on August 18, 2010. The insurance carrier denied date of service August 18, 2010 with denial reason “29 – The time limit for filing has expired. Per Texas Labor Code 408.027 bills must be sent to the carrier on a timely basis, within 95 days from the dates of service.
3. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.” No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
4. Texas Labor Code §408.027(a) states, in pertinent part, that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.” 28 Texas Administrative Code §102.4(h) states that “Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.” Review of the submitted information finds no documentation to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

Conclusion

For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	_____ May 23, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.